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City of Broomfield

OFFICE OF THE CITY MANAGER

NUMBER SIX GARDEN OFFICE CENTER • BROOMFIELD, COLORADO 80020 • PHONE (303) 469-3301

June 20, 1989

Mr. James Scherer
Regional Administrator
U.S. Environmental Protection Agency
999 - 18th Street, Suite 500
Denver, Colorado 80202

RE: NPDES Permit for Rocky Flats

Dear Jim:

Thank you for EPA's quick work on Monday in clarifying that Broomfield's activities to divert Willow Creek fall under Nationwide Permit #26. As we mentioned at the meeting, the City of Broomfield is also quite concerned with the NPDES permit for Rocky Flats. Therefore, through this letter, we are requesting that the Rocky Flats permit which expires June 30, 1989, not be continued after it expires while EPA finishes its processing and decision-making on the application Rocky Flats has filed with you for renewal of its existing permit.

Bob Burn stated at Monday's meeting that he anticipated the permit would be administratively extended because he wasn't through processing the permit. We are concerned at the amount of time it is taking EPA to process this very important permit and encourage the agency to move forward diligently. We also greatly appreciate the statement made by Mr. Burn that he would meet with the affected cities as he is considering the draft permit conditions and also would schedule public hearings. We believe that this public comment is particularly critical given the health concerns related to Rocky Flats. However, this processing should not occur at the public's risk.

The normal extension which may be granted under 40 C.F.R. §122.6 is not available here for several reasons. Allegations have been made that DOE has not complied with the NPDES permit, and therefore, the permit is subject to the provisions of §122.6(c). We also question whether the permit application was timely filed and whether it was complete. Did the application identify the discharge of the parameters identified in §9.18 of the below referenced affidavit and propose adequate treatment measures?



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James Scherer
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This matter is particularly important given the assertions made in the affidavit filed by Federal Bureau of Investigation Special Agent Jon S. Lipsky. Several of the allegations made in the affidavit particularly relate to key water quality concerns and are reasons for asking that EPA not exercise its discretion to allow the permit to be continued in effect past its expiration date. I am enclosing an attachment which includes several of the key paragraphs relating to water quality discharge permits, but want to particularly point out paragraph 9.25 of Attachment 3 of the Federal Bureau of Investigation's Application and Affidavit for Search Warrant which states:

9.25 There is probable cause to believe that DOE and/or Rockwell have made false statements to or concealed material facts from the EPA concerning discharges from Rocky Flats to "navigable waters," in violation of 18 U.S.C. §1001, and has criminally violated the Clean Water Act, 33 U.S.C. §§ 1311(a) and 1319(c), by negligently or knowingly discharging pollutants into Walnut and Woman Creeks since at least 1987, without a permit or in violation of Rocky Flats' permit conditions.

Based on all the significant public health concerns including those raised by the affidavit, we believe there are substantial and compelling reasons for EPA to not allow the continuation of the expiring permit. Therefore, the City of Broomfield asks EPA to notify Rockwell and DOE that it will not continue the permit beyond June 30, 1989. We also ask that the City be kept completely informed of all of the matters related to this NPDES permit action and be given full opportunity to consult with you regarding our significant concerns and to receive notice of any hearings or meetings which may be scheduled.

The City remains available to help you in any way possible.

Very truly yours,

George DiCiero

George DiCiero
City Manager

cc: Governor Roy Romer
Mayor George Havoroka
Mayor Robert Frie
Mayor Donald L. Parsons
Max Dodson
Bob Burm

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